



Approved 4/19/06

**PLANNING COMMISSION
CITY OF SCOTTSDALE
CITY HALL KIVA
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
MARCH 22, 2006**

STUDY SESSION MINUTES

PRESENT: Steve Steinberg, Chairman
James Heitel, Vice-Chairman (arrived 4:15)
David Barnett, Commissioner
Eric Hess, Commissioner (arrived 4:20)
Kevin O'Neill, Commissioner
Jeffrey Schwartz, Commissioner
Steven Steinke, Commissioner

STAFF PRESENT: Donna Bronski
Lusia Galav
Frank Gray
Deborah Robberson
Sherry Scott
Kira Wauwie

1. **CALL TO ORDER**

The study session of the Scottsdale Planning Commission was called to order by Vice-Chairman Steinberg at 4:01 p.m.

2. **ADMINISTRATIVE REPORT - LUSIA GALAV**

Ms. Galav invited the Planning Commissioners to attend the Development Review Board retreat which will be held on April 6, 2006 from 5 to 8 p.m. in the HR Pinnacle Room. She noted that Downtown design issues would be a topic of discussion.

APPROVED

4. **REVIEW OF MARCH 22, 2006 AGENDA**

CONTINUANCES

2-TA-2006

ESL Text Amendment

Ms. Galav reported that Staff is hoping to have the language completed for the April 19 meeting.

EXPEDITED AGENDA

4-UP-2006

Mountainside Plaza - M&I Bank

Ms. Galav reminded the Commission to include the findings as suggested or as written in the Staff report when they make their motions to approve cases that have findings, such as use approvals and some of the zoning cases.

REGULAR AGENDA

17-AB-2005

Windmill Ranch

Ms. Galav reported that this item is an abandonment coinciding with a preliminary plat that has already been approved. She noted the abandonment was needed so that the preliminary plat could go forward to final plat.

Commissioner Schwartz expressed concern about the global issues of abandonments. He noted that the map included in the packet did not show how the areas to the south and north would be affected by the abandonment; it appeared that part of the street was not dedicated to the north. To the south where the dedication occurred was a right-of-way. He requested that staff bring a map depicting a mile north and a mile south of the area including a depiction of the right-of-way to the regular meeting. Ms. Galav stated that the approved preliminary plat was included in the packet.

Commissioner Schwartz argued that if the Commission had approved the preliminary plat they would have asked questions at that time. He opined that if the plat cannot move forward without the abandonment, then abandonment should be approved prior to approval of plats. He noted that he would like to keep the item on the regular agenda for further discussion concerning the areas to the north and south.

Commissioner Barnett commented that the map was completely out of context, showing from Hawknest up to Stagecoach and nothing closer in than that. For two years, each time an abandonment has come before the Planning Commission a request has been made for staff to include bigger views and still they have not been included.

In response to an inquiry by Chairman Steinberg, Ms. Galav explained that only the portion of the right-of-way that is the subject of the preliminary plat would be abandoned. The dedicated right-of-way easement was not included in the

preliminary plat because at the time the plat went through it was determined by staff that the right-of-way was not needed.

Ms. Galav confirmed that there had been no community opposition. Chairman Steinberg requested the item be left on the regular agenda for further discussion.

5. **REVIEW OF APRIL 19, 2006 TENTATIVE AGENDA**

1-UP-2006 Tanners

Ms. Galav stated that there should be no issues with the item, noting a previous delay because it had not been advertised properly.

20-AB-2005 Colaric Abandonment

Ms. Galav reported that staff had been meeting with both sides of the case in an attempt to arrive at a compromise.

Commissioner Schwartz remarked that he would like to sit in on some of the meetings in order to gain an understanding of what the each of the parties are hoping to accomplish. Ms. Galav confirmed that she would include him on the meeting list.

3-GP-2006 Transportation General Plan Amendment

Ms. Galav identified the item as the addition to the mobility element which would include a short staff report.

6-AB-2006 Scottsdale Foothills Condominium

Ms. Galav explained that the item is for a condominium conversion of an existing multi-family development which has GLO's running through it. Staff has requested that the GLO's be abandoned before the conversion is processed.

In response to an inquiry by Commissioner Schwartz, Ms. Galav stated that there are three GLO's running through the buildings. She noted that there would be more information available once the staff report was prepared.

7-AB-2006 Dusenberry Residence

Ms. Galav noted the item is a request by the owner to abandon a drainage right-of-way.

In response to a comment by Commissioner Steinke concerning the contiguous areas related to the abandonment, Ms. Galav confirmed that the requested information would be included in the Staff report and in the exhibits.

2-TA-2006 ESL Text Amendment

3. **REFRESHER ON OPEN MEETING LAW REGULATIONS - DEBBIE ROBBERSON**

Ms. Robberson addressed the Commission, noting one reason for reviewing open meeting law regulations was because the public, along with other bodies such as the Attorney General's office, scrutinize what the Planning Commission does. Highlights of her presentation identified specifics regarding the Open Meeting Law and the Attorney General's opinion issued last summer.

The Open Meeting Law requires that the public's business be conducted in public. Ms. Robberson mentioned that although the public has the right to be present and listen, the City of Scottsdale practice is to allow citizen comments on items. State law attempts to allow for all official business to be conducted in the open and with public scrutiny.

Ms. Robberson reviewed that the rule applies to all public officials, which include City Board and Commission members, the City Council, and members of standing special or advisory committees and subcommittees. The Open Meeting Law does not govern communications between staff.

Ms. Roberson reviewed the State Statute definition of a public meeting and the requirements for posting advance notice to the public, adhering to the agenda, and making minutes available in written or recorded format.

Ms. Robberson discussed situational scenarios in which a violation of the open meeting law may occur, including social events, training sessions, and e-mail communication. If e-mail messages are forwarded, a serial violation of the Open Meeting Law may occur.

The recent opinion is significant because this is the first time the Attorney General held that a one-way communication could violate the Open Meeting Law. In response to a question by Commissioner Barnett concerning e-mail that the recipient does not read, Ms. Robberson reiterated that it usually takes a communication amongst a forum to violate the Open Meeting Law.

Ms. Robberson stated that "proposing" legal action in an e-mail sent to a quorum would be considered a violation. She suggested that requesting staff place an item on the agenda for discussion would be appropriate, while requesting staff place approval of an item on the agenda would be a violation.

Ms. Robberson reiterated that Commissioners can communicate with staff, reminding them that it would be the discussion, deliberations, and communications amongst a quorum of the body that would be a violation of the Open Meeting Law. She clarified that executive sessions, which are limited to the purposes listed in the pamphlet entitled "You as a Public Official," are an exception to the Open Meeting Law; the key being that no decisions can be made.

In response to a question by Commissioner Steinke about communicating by e-mail with a citizen, Ms. Robberson explained that responding to a citizen inquiry or comment would not be a violation, but suggested that the rest of the Planning Commission not be copied. She advised that if a citizen copies an e-mail and

distributes it that would not be a violation, because that would be out of the control of the sender.

6. **ADJOURNMENT**

With no further business to discuss, the study session adjourned at 4:39 p.m.

Respectfully submitted,
A/V Tronics, Inc.

Officially approved by the Planning Commission on April 19, 2006